

Chapter 24 Meeting Minutes
Tuesday, March 31, 2015
2:00pm-4:00pm

Speakers: Giselle Rodriguez – City of Fayetteville
Jeff Bartley -- NC811

In Attendance:

City of Fayetteville: Jeff Riddle, Adam Furr, Jessica Batten, Al Hardee, Chris Haddock, Byron Reeves, Mayowa Lewis, Clement McMillan, David Norman, Suzanne LaGrange

Aqua America: Allen Daniels, Don Williams

Century Link: Tony Evans, Angie Burcham, Doris Bunnells, Teresa Padgett, Evelyn Andrews, Joe Stephenson

Distribution Const: Joe Kulwicki

Duke Energy: Ernest Alston, David Vencill, Kerry Pope

Lambert: Ray Shipman

PNG: Douglas Ward, Bob Hayes, Tracy Maddox, Michael Sealey

PWC: Marty Tew, Kevin Hawley, Jeff Moore, Mike Willis, Kenny Hart, James Strickland, Darrell McManus, Misty Manning, Chris Rainey, Joe Glass, Rick Davis, James Michel

S River EMC: Randy McLamb, Kacey Johnson, Dale McLamb, Andrew Smith, David Larson, Steven Holmes,

TWC: Jack Crabb, Wallace Frazee, Tony Mlynsk,

Meeting opened with Giselle welcoming all and introducing Jeff Bartley of NC811.

Asked for number of companies – 1 person with each company to state company name.

NC811: (Since a copy of the ppt was not provided, minutes of presentation are covered in detail)

Jeff, thanked City and Giselle for allowing him to speak at the meeting, then presented changes and upcoming changes to NC811. Would be discussing some of the changes to the Powell Prevention Act. Talked about the ticket volume had last year in North Carolina, a little bit of the legislature background of the working group that met 2012-2013. Essentially how the changes affect stakeholders, mandatory requirements, exemptions and enforcements; there are fines and penalties as part of this act. North Carolina for 2014, there was just under 1.3 million locate request. That is an increase of just over 6% from 2013. A lot of activity, a lot of volume, more like everyone else had a significant downturn 2008 and 2009 and we've seen a steady increase since that time. We've seen a growth in volume between 5 and 9% each year.

Transmission wise, almost 6.3 million transmissions for 2014 and that's an increase of almost 7%. Easy math, every time someone contacts over their intent to excavate, we notify about 5 of our members. Clarification, a lot of people do not understand, but NC811 DOES NOT DO ANY LOCATES. We do not put any paint on the ground, we simply receive information from those that are going to disturb the ground, we disseminate, we send out that information to our members. It is our members responsibility, either in-house or contract out the service to locate their facility. House Bill 476, Representative Mike Hager sponsored the bill and the group begin meeting in August, 2012. The working group included a primary & secondary, from gas distribution as well as gas transmission. All power companies, as well as communication companies found cable and such, contractor locator group, the excavators, the municipalities, the NCDOT, as well as the EMCs (electric membership co-ops). So, as you can see, there is a great mix of people with different ideas coming together for a common goal. The existing law was written in 1985. The mix of people came with different agendas, but were able to meet with a common goal of improving the Damage Prevention Act. South Carolina law just went through this a few years prior, we used that as a starting point for language, they met every few weeks in Raleigh, the bill was introduced in March 28, 2013. Gov. McCrory signed it in August, 2013. Everything I am going to speak about excluding mandatory membership became effective October 1, 2014.

One of the new changes is a 3 hour ticket. If you call us and submit a locate request with the required amount of time, you get to the job site and see that there is evidence of an unmarked facility, cable tv no orange marks, power transformer no red marks, gas valve with no yellow, you cannot proceed. You then must submit a 3-hour ticket, contact us, we then will contact the unresponding facility owner, they then have 3 hours to respond and identify location of their facility. It's one last stitch effort for damage prevention to keep people safe.

It talks about mandatory training for locators and professional excavators. The law does not get into very much detail on that, essentially document, document and document if you do any training of any kind - document who attended, the dates, any safety meetings, any equipment manufacturers, documentation, documentation. It talks about white lining, we are a strong advocate for white lining, cause what may be clear and concise to the people submitting the request to us may not be clear and concise to all the locators responding to this request. White lining in the intended excavation area is a clear and concise way to convey where the excavation is going to take place. That being said, the only thing the law says is if you cannot clearly identify the area to be excavated, then you must white line. Previously it was a 2-day notice when submitting a locate request, but that has been changed, it is now 3-days. For an example, if you contact us on Monday, your ticket clears on Friday. One thing I want to stress is that it is a little confusing cause if you contact us on Monday, you look at your ticket, your ticket will say you are good to clear on Thursday at 11:59 PM, a lot of people are seeing the Thursday, but not the 11:59 PM, so essentially it is Friday. If you contact us on Tuesday, it will be able to begin your excavation on Saturday, if on Wednesday, you are good to excavate the following Tuesday. If there is a holiday involved, such as this Monday, you contact us on Wednesday, you would begin your excavation the following Wednesday. So, as you can see, you really need to plan your excavation to incorporate this 3 business day notification.

On the tickets going forward can be no longer than one quarter mile in length or 5 contiguous addresses that do not exceed the quarter mile in length. The tolerance is only 24 inches; it used to be 30, one of those changes that is long overdue, it's now 24. Some at the meeting wanted 18, some wanted to keep it at 30; 24 is a great compromise. Most other states have either 18 or 24 inches, it's a great change. Example is electric, if there is a large pipe or multiple duct bank, if it is identified as such, it would be 24 inches from either side from the outside into the duct bank. If it is identified, on the right just like on a gas line located with a single line of paint, it is 24 inches from the outside edge of either side of the paint. Again, a 24 inch tolerance zone.

Big change, also, there are 2 things an excavator must do prior to bringing mechanized equipment other than soft dig or vacuum excavation into the tolerance zone, are first the excavator or contractor must make sure he either spots the facility and/or verifies that it is not at the depth of his excavation and secondly, the excavator must make sure that he avoids any weakening of facilities either lateral or structural support and has got to be careful not to damage the outer side jacket or protective coating of that line. These things must be taken care of before he brings mechanized equipment into the tolerance zone.

If you are going to parallel excavate within the tolerance zone, our law states that you must identify the facility, spot the facility not to exceed every 50 feet along the excavation area. Before, it was voluntary membership, as of October 1, they are segwaiting, they are changing to mandatory membership. It is going to be graduating by size of facility owner – for those large facility owners (large being defined as 50,000 or more customers or a 1000 miles or more facility) they had to become a member by October 1 of last year. Medium size members (those defined as having more than 25,000 but less the 50,000 customers and more than 500 miles but less than 1000 of facility) they must become a member by October 1 of this year. Everybody else, including the NCDOT, must become a member by October 1, 2016. Then and only then will become a true one-call notification state. Cause up until mandatory membership kicks in, once you contact on where your intent to excavate we will let you know who we are going to notify. We're not going to tell who we are not going to notify that would be up left up to the caller to determine who else has facilities and who isn't a member and contact them directly of their intent to excavate so they can get out there and mark their facilities. All positive response was a service that we offered just a service, as of the new law change, it is mandatory that if you contact us with your intent to excavate, whoever we notify they must populate positive responses as to what they did out there. If they located it or there is no conflict or to get up with the contractor to make arrangements. Our members are to generate positive responses as to what they did. One step further, if you are an excavator or contractor and you contact us, before you send your crews out, you must retrieve this information. There are 1 of 3 ways in which you can

retrieve this information from us: you can go through our website, our app (free app with a lot of great information on it) or if you give us your email address when you submit it to us, we will electronically notify you once your ticket clears that is the easiest and best way. It is a great way to share what they did out there and contractor retrieve it before the crews go onsite.

Obviously excavators are required to notify us before you dig, I will talk about the exceptions shortly, talk about the reporting and damages – before that was just a service we offered as well. But going forward, if you are an excavator or contractor and you damage a facility, damage isn't just a severed line, damage could be to the jacket, protective coating, nick, gouge, scrape, ding, that is a damage, because in time that line is going to fail not this year or next, but it is going to fail. You must make 2 phone calls, one to the facility owner and one to NC811 reporting these damages.

Presented a video of damage that happened while a contractor was doing a directional drill and damaged the existing 12 inch gas line. Obviously, the contractor was not aware of the damage he caused, the damage happened in 2003 and this failed January, 2014. As I mentioned, it is going to fail, this line took over 10 years before it failed. So, it is important to contact the facility owner of damages to this other line. This is an example that failed over time due to the acidity in the ground and detrition of the line and that was a 12 inch high pressure gas line.

Exemptions:

Obviously anybody working in the single family house homeowner working outside the permitted use, right of way or easement. They can do whatever they want on their property. We highly recommend and encourage them to contact 811. You don't know where the gas line goes into the house or the power line or anything else. It is a free service, but if they are not working within the easement, right of way they do not have to, but once again, we encourage them to do so. Once again, if they do get into the easement, right of way or permitted use if they are using hand tools, non-mechanized they do not have to call us. But once again, that's where all the facilities are and we highly recommend it.

Tilling for soil for horticultural purposes exempted. Horticultural excavation using mechanized tools, as long as they again don't encroach into the permitted use, easement, right of way do not have to call, but it's a free service.

All excavation/demo performed by the DOT, the local government, serves a purpose, strictly for the purpose of maintenance activities within the right of way, they do not have to call. Maintenance activities such as: resurfacing, milling, emergency replacing of signs critical for safety – say a stop sign gets run over – restoring shoulders or ditches to original profile, they do not have to call, but again, please do, that's where all the facilities are. Activities not exempted include initial installation of traffic signs, traffic control equipment or guardrails – you still have to call.

All excavation/demo done by a railroad, entirely on land the railroad owns or operates or in event of emergency on adjacent land. As in like something that happened up north recently, where the train derails, obviously they don't have to call.

The one exception to mandatory membership is bullet number two: None of the facilities owned or operated by the railroad are included in provisions of the act, therefore, they are exempt from membership of these facilities. That is the lone exemption in North Carolina for mandatory membership. But, we do have a railroad that is a member. To me that is a great way to find who is working on or near their right of way. Great source of information, so we highly encourage them to be a member as well.

Excavation for the purpose of graves. Essentially anything at a cemetery, they do not have to call. But most cemeteries have a building with power and a phone in it, so there is an easement going there, so they may want to identify that location, so may want to call us, but don't have to.

Municipalities – gravity fed sanitary or sewers are exempt from locating. However, any future installation of these stormwater facilities or sanitary/sewer placed after October 1, 2014 must be made electronically locatable.

While there is enforcement, it will be complaint driven; any entity can file a complaint against anybody else – a locator against a facility owner, facility owner against a contractor. What I say, is generally you work it out. You determine where the responsibility is and life goes on. If you can't work it out you have recourse available to you, file a complaint. Complaints can be received at our web portal housed at NC811, once we receive notification of a complaint, we will notify the alleged violator within 10 days and the complaints going to be reviewed by a board of 15 people that have been appointed by the governor and are representatives of these entities. Everyone in the room has representation on this board. The enforcement board will meet at least on a quarterly basis and the fines/penalties are graduated up by the severity of damage. The board can recommend simply training and education for neglect. If it is gross neglect a fine of \$1000.00 plus training and education. If gross, willful conduct, I know you are there, but I really don't care, our board could recommend \$2,500 per incident plus training and education. Similar to the lottery, all monies received go to the state education per the North Carolina Constitution, all the board passed onto the utilities commission and if the person found liable for the damage doesn't like the decision rendered, he can file an appeal through an arbitration process. Other than that, if there are any questions, I will be happy to answer.

Q: From the Department of Homeland Security prospective, why would the railroads be exempt?

A: The way the law is written, I don't know, but Homeland Security is addressed in the bill itself, in the law itself that if someone feels it is in violation of the Homeland Security Act, they cannot look at the facilities.

Q: What does electronic locatable mean?

A: I am sure gravity fed sewer lines and stormwater facilities, the law does not say. I guess it is left up to interpretation. All I can speak of is an example gas company; they have plastic pipes they put a tracer wire in there. Tracer wire, color tape, I guess it is left up to the facility owner to determine what his locatable, electronic locatable and do what is necessary.

Thanked for time, stated that if they at NC811 can assist them, companies, contractors, do not hesitate to contact them.

CITY OF FAYETTEVILLE – Giselle

Giselle explained attached in the package, one per company; they could make as many copies as needed when returned to their office. Material will be posted on the web and sent by email to those in attendance.

Packet contained: Power Point Presentation, Frequently asked questions, Quick Comparison Table – what ordinance is now and what it is changing to for comparison, after that exhibits of the restoration requirements, Attachment B which is the way the 25% will be calculated, pipe bedding and compaction detail, temporary patch detail and the permanent patch detail. Business cards on back table of Giselle and 2 inspectors for the excavation permits.

At this point, Giselle reviewed the slides as noted in the packet. Attachment A gives 10 non-acceptable and acceptable restoration/patch details. Attachment B gives the new resurfacing requirements regarding cuts/patches as related to the 25% rule. Giselle also reviewed all questions on pages 4 and 5 of the FAQ document.

Q: If a utility is repairing laterals in preparation of resurfacing, does it have to be patched from curb to curb?

A: If you are doing a repair to a lateral or any kind of services in preparation for resurfacing you are not required to follow the restoration requirements. That is a question/answer that was added to the last attachment (page 4/5). At the end will go over all those questions, but no, this section which is 24-56 will not apply to those instances.

Q: If a patch is over 25%, what happens with the overlay? Who is responsible?

A: If the first patch already disturbed 25%, then they would be required to do the resurfacing from intersection to intersection. If they did 20%, whoever gets it above 25% will be required to do the resurfacing from intersection to intersection.

Q: How is that 25% measured?

A: When you are getting ready to do your patch, it will be counted in the way that the patches are cut, so what it means is that if the day before somebody came in and cut the road and put it at 24%, not technically at 25% yet, and you come in right behind then and do another patch, then it would be whoever brought it above the 25%. Coordination between utilities will help issues line this.

Q: Has there been any thought given to revisiting this in 6 months or a year to see how it is working, to see if there any changes that need to be made or anything like that?

A: As with any ordinance, you always have to come back to see how it is working and do tweaks to it, so as soon as you have a concern you are always to bring it especially from your perspective to the City/PWC meeting, utility meeting or the quarterly project update meeting we have or to see me and we will revisit those as they come in. There may be concerns that we have from the city's end as well and we may revisit them whenever it is needed.

Q: Requested that we go to the slide where we put in the new utility – is that subject to the new chapter amendment or the new resurfacing policy?

A: This is specifically to the Chapter 24, in addition to this; there is a policy that the city actually adopted back in November/December that says "That Any New Utility Will Be Required to Resurface the streets where the New Utility will be installed". The difference between the new policy and this Chapter 24 is that the new policy Only Covers New Utilities. Chapter 24 will cover any improvements to an existing utility that meets this criteria, which means if you have a water line that follows this same definition, if you are changing the water line, it's not a new utility, but will still apply based on Chapter 24. The discussion today is specifically about Chapter 24.

What happens when we put in new utilities in short sections? – Because it is a new utility, if you meet the requirement of the policy, you will have to abide by the policy if the policy does not apply then you will abide by Chapter 24.

So, if there is not a water line on Hay Street, right out here and we put a new one out there, are we subject to 24 or the policy?

You are subject to the policy because it is new utility.

Slide 14 (Example 2) refers to a new patch, not a new utility.

Q: Regarding Vegetation, - Ground cover established within 7 days, what is your definition of established?

A: At least it should be put down, for example, if you are putting sod, once you put the sod down, it will be acceptable and time stops. If you seed it, in some instances, you might even have to use some matting to pin it down. So, if you use the matting and seed it you will be fine, vegetation will be guaranteed as typical.

So, seeding and matting or straw meets that definition. Yes

Q: I am not clear about the patching, I need clarity on that. Are you saying before we can put asphalt down after an excavation or utility repair, that we have to present you documentation that we have done compaction testing?

A: Yes, if you want to take advantage of the reduction of warranty for 3 years. If you are installing utilities in preparation of a new street, you have to provide those compaction testing results before it is paved. If you are doing activities in preparation of resurfacing, you have to provide compaction testing before you pave and the third situation will be if you are doing a random patch or random trench and you elect to do backfill with compaction, you want to take advantage of the 3 year warranty you will have to provide the testing back to us so we can okay it before you pave.

Q: What is your turn around time on reviewing the testing results?

A: Anytime it says City Engineer, it's not just me. It is the City Engineers or designee. It could be an inspector – Clement, Ike or the new inspector that we are hoping to get with a new initiative. So, let's say, you call the inspector, you send a testing result, I don't see any reason why you couldn't get a response either the same day or the next day.

Q: What happens if we don't do the compaction testing?

A: If you do not do the compaction testing, the patch is yours forever. If you continue to do the normal practice, the warranty will continue as it is, but if you want a reduction, then you will use the advantage of the compaction testing or the flowable fill. Compaction testing will be a reduction of 3 years; flowable fill will be a reduction to 1 year. *Warranty times start at the completion of repair. Warranty does not apply to annex.

Q: What are the compaction testing requirements?

A: We are currently drafting that, but like I mentioned, per the draft right now, which we have incorporated a lot of that into the annexation contract, you do a compaction for every trench that is deeper than 4 feet and you will test every 3 feet, staggered throughout the trench and you will follow the detail that we have for compaction requirements that is provided in your package. So, if you are in the 98% zone, then you will have to compact to the 98%, if you are in the 95% zone or 100% zone, you will have to do those compaction testing. You will also have to do compaction testing on the ABC, so basically, you have to get those percentages as outlined on this detail.

When you are calling for the testing, you are going to know right then. The technician should be able to tell you right then if you passed or not. Then move on up and move on out.

Q: Who is responsible for testing, the city's technician?

A: No, the F&R, S&ME, etc. whoever that is. If it passes, we are going to go by what they tell us.

Q: So, we have 10 crews working all over the city, you think they will have a technician to at each location at time of excavation?

A: In that instance, it will be more appropriate to use flowable fill.

Yes there are some additional costs as related to flowable fill. It may require steel plates but I can tell you that all of a sudden you aren't buying dirt to put back in there, you aren't stockpiling, you aren't hauling material. There are many benefits, our streets are definitely going to benefit from it. We've used it on Bragg Blvd with all that traffic and we put down approximately 10 trucks of flowable fill and it hasn't moved. It shrinks about a quarter inch per foot and the price we got was \$72 per cubic yard, which is cheaper than regular concrete. There are places it will be beneficial to use flowable fill and other areas may not.

Q: What is the cost? Is it easy to remove?

A: They price is approximately \$80 per cubic yard. It is harder than compacted soil and can be removed with excavator and even with a shovel.

Q: What are the specifications for flowable fill?

A: Right now, our current specs is that the PSI be between 100 and 200. Based on the research that we have done, 200 is way too high to do any kind of operations like that. When you have an excavatable flowable fill in the 200 PSI, that will require more effort to remove it. We are looking to reducing that to 150 as a maximum to make sure that it can still be excavated, but you will still get a better product as compared to regular backfill. Based on the regular DOT mix is anywhere from 80 to 150 PSI which can be easily removed.

Q: What happens around valves that we need to backfill? Can we use flowable fill above the backfill? Do we need testing?

A: It may be in your best interest that you are meeting compaction on the dirt you put back, because if not you are going to see some settlement on that flowable fill and then what was the benefit of using flowable fill if it is still going to settle. So you might want to make sure that you have good compaction on that section

Q: Is the fee schedule approved?

A: The fee schedule is being drafted and pending Council approval. Right now as is provided on the schedule for approval of that budget, we should have an approved budget by the beginning of June. In some instances in the past, that has been delayed and probably towards the end of June. Our hope, is that in fact, we will have an approved budget by the 1st of June, which means that the fee schedule will be approved by then, because the fee schedule is part of the budget.

Q: Has the City decided what type of compaction test you are going to acknowledge – is it going to be sandcones or nuclear gage?

A: Right now we are looking at both.

No other questions, If business card is provided, will get digital documents to you so you can get to contractors you work with.